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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,529	10/31/2001	Thomas P. Hager	25145A	8583

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OWENS CORNING  
2790 COLUMBUS ROAD  
GRANVILLE, OH 43023

EXAMINER
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GRAY, JILL M

ART UNIT	PAPER NUMBER
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1774

7

DATE MAILED: 07/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/003,529

Applicant(s)

HAGER ET AL.

Examiner

Jill M. Gray

Art Unit

1774

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 9-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. Applicant's election with traverse of Group I in Paper No. 7 is acknowledged.

The traversal is on the ground(s) that applicants believe the search and examination of the entire application can be made without serious burden. This is not found persuasive because the search for each invention is different.

The requirement is still deemed proper and is therefore made FINAL.

### ***Specification***

2. The use of the trademarks such as "KEVLAR" or "VINCH 500" has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In particular, claim 6 relies on trademarks "VINCH 500" and "17-41B" to identify or describe the particular vinyl ester resin material being claims. This is improper because a trademark is used to identify the source of goods, and not the goods

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themselves. Hence, a trademark does not identify or describe the goods associated with the trademark. Therefore, the scope of claim 6 is uncertain since the trademark cannot be used properly to identify any particular material or product which renders claim 6 indefinite and constitutes an improper use of the trademark. See MPEP 2173.05(u).

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Fernyhough et al, 5,700,417 (Fernyhough).

Fernyhough teaches a fiber reinforced rod comprising a plurality of fibers coated with a UV curable resin material, which can be vinyl ester and an outer topcoat as required by claim 1. See column 2, line 18 and column 5, lines 5-6 and 17-18.

Accordingly, the prior art teachings of Fernyhough anticipate the invention as claimed in claim 1.

7. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Olesen et al, 4,956,039 (Olesen).

Olesen teaches a composite body comprising a plurality of filaments impregnated with a thermoplastic and an outer topcoat surrounding the impregnated filaments. The filaments can be E-glass or S-glass filaments as required by claims 2-5 and the

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thermoplastic impregnate can be a vinyl ester resin as set forth in claim 1. See column 2, lines 56-60 and column 3, line 65 through column 4, line 3.

Therefore, the teachings of Olesen anticipate the invention as claimed in claims 1-5.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 2-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fernyhough '417 as applied above to claim 1, in view of Olesen '039 as applied above to claims 1-5.

Fernyhough teaches a fiber reinforced rod comprising a plurality of fibers coated with a UV curable resin material, which can be vinyl ester and an outer topcoat as set forth above. See column 2, line 18 and column 5, lines 5-6 and 17-18. In addition, Fernyhough teaches that his UV curable resin can be blended with copolymers of ethylene with esters of acrylic acid, acrylic copolymers, copolymers of ethylene with vinyl esters of carboxylic acids, polybutylene terephthalate and various other copolymers and derivatives. See column 3, lines 16-67. Fernyhough is silent as to the specific glass fibers and topcoat layers.

The formation of glass fiber reinforced rods is known in the art as evidenced by the teachings of Fernyhough and Olesen. Regarding claims 2-5, while Fernyhough is

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silent as to the specific type of glass fibers used, it would have been obvious to choose any fibers with the reasonable expectation of success in the absence of unexpected properties that are directly related to the specific glass fibers. Moreover, the teachings of Olesen would have provided motivation to one of ordinary skill in the art at the time the invention was made to modify the teachings of Fernyhough by forming a glass fiber reinforced rod wherein E-glass or S-glass fibers are used, as is known in the art. As to claim 6, the teachings of Fernyhough at columns 2 and 3 would have provided a suggestion to the skilled artisan that any UV curable vinyl ester resin material could be used with the reasonable expectation of success. Furthermore, in the absence of a clear definition of the specific resin materials claimed in claim 6, it is the examiner's position that the teachings of Fernyhough would encompass any UV curable vinyl ester resin material known in the art including those of the type contemplated by applicants. As to claims 7 and 8, Fernyhough teaches that ethylene copolymers of vinyl esters and polybutylene terephthalate can be added to the resin material. This teaching would encompass polybutylene terephthalate copolymers as well and in the absence of unexpected properties directly related to the specific polybutylene terephthalate material, this is not seen to be a matter of invention. In addition, it should be noted that the language of "comprises" does not exclude the blends as taught by Fernyhough.

Therefore, when considered as a whole, the combined teachings of Fernyhough and Olesen would have rendered obvious the invention as claimed in claims 2-8.

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Applicants have not clearly identified that which they regard as their invention.

Glass fiber reinforced rods are well known in the art as clearly evidenced by the prior art teachings.

No claims are allowed.

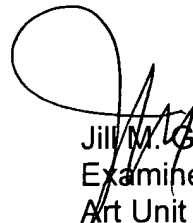
**Conclusion**

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Matsuno et al, 5,126,167 teaches glass fiber reinforced rod comprising glass fibers impregnated with a vinyl ester, wherein said rod is encased in a thermoplastic resin layer.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jill M. Gray whose telephone number is 703.308.2381. The examiner can normally be reached on M-F 10:30-7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia Kelly can be reached on 703.308.0449. The fax phone numbers for the organization where this application or proceeding is assigned are 703.872.9310 for regular communications and 703.872.9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.0651.

  
Jill M. Gray  
Examiner  
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jmg

June 29, 2003